

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JERONE McDUGALD,
Plaintiff,
vs.

Case No. 1:16-cv-497
Dlott, J.
Litkovitz, M.J.

LIEUTENANT ESHAM, et al.,
Defendants.

ORDER

Plaintiff, an inmate at the Southern Ohio Correctional Facility (SOCF) proceeding *pro se*, brings this civil rights action under 42 U.S.C. § 1983 alleging violations of his constitutional rights by several defendants. This matter is before the Court on plaintiff's motion to compel discovery filed on June 9, 2017 (Doc. 47), which is unopposed.

This is the second motion to compel plaintiff has filed in this case. Plaintiff filed the first motion to compel on February 21, 2017. (Doc. 29). He sought an order under Fed. R. Civ. P. 37(a) compelling defendants to produce documents for inspection and copying and compelling defendant Ron Erdos to fully answer interrogatories. (Docs. 30, 31). Defendants responded that they were working in good faith to comply with plaintiff's discovery requests but they needed additional time to gather all of the necessary information and documentation. (Doc. 33). Defendants asked the Court to extend the March 19, 2017 discovery deadline by 90 days to allow the parties to complete discovery (Doc. 34), and plaintiff also moved for an extension of the discovery deadline (Doc. 32).

The Court denied the first motion to compel on two grounds: (1) plaintiff did not certify that he had exhausted all extrajudicial means for resolving the discovery dispute before filing the motion to compel, and (2) defendants represented to the Court that they were in the process of

gathering the requested information to the extent it was available. (Doc. 35). The Court extended the discovery deadline to June 15, 2017 and the dispositive motion deadline to July 17, 2017.

Plaintiff filed his second motion to compel on June 9, 2017. (Doc. 47). Plaintiff moves the Court for an Order under Fed. R. Civ. P. 37(a) compelling defendants to produce documents for inspection and copying and to fully answer interrogatories. Plaintiff has included in his motion a certification that he conferred with defendants' counsel about the outstanding discovery requests on February 4, 2017, but defendants have not complied with his discovery requests. Plaintiff has submitted a copy of the interrogatories he posed to defendant Erdos and his request for production of documents. (Docs. 48, 49).

Defendants did not file a timely response to plaintiff's second motion to compel filed on June 9, 2017. (Doc. 47). The Court issued an Order on November 13, 2017, finding that plaintiff's second motion to compel appears to involve the same interrogatories and documents that plaintiff sought in his first motion to compel. (Doc. 55; *see* Docs. 29, 30, 31). The Court noted that defendants acknowledged in response to the first motion to compel that "responses to discovery are required"; they informed the Court that documents requested by plaintiff that pertain to the alleged incident giving rise to the lawsuit were being gathered to the extent they exist and would need to be redacted; defendants represented they were working in good faith to respond to plaintiff's discovery requests; and defendants requested additional time to complete discovery, which the Court granted. (*Id.*; *see* Doc. 33). Because it was unclear whether there were any outstanding discovery issues or whether defendants had produced all discovery to which plaintiff is entitled, the Court ordered defendants to file a response to plaintiff's motion to compel within 14 days and deferred ruling on defendants' motion for summary judgment until

the motion to compel is resolved. (Doc. 55). Defendants have not complied with the Court's Order to file a response to the second motion to compel within the time allotted.

Accordingly, plaintiff's motion to compel (Doc. 47) is **GRANTED**. Defendants are **ORDERED** to respond to plaintiff's first request for production of documents and first set of interrogatories (Docs. 48, 49) within **twenty (20) days** of the date of this Order. Plaintiff shall have until **February 7, 2018** to file a response to defendants' motion for summary judgment (Doc. 51).

IT IS SO ORDERED.

Date: 12/21/17


Karen L. Litkovitz
United States Magistrate Judge